

JOURNAL  
OF THE  
PROCEEDINGS OF THE  
Constitutional Convention,  
ASSEMBLED AT MONTPELIER,  
ON THE  
FIRST WEDNESDAY OF JANUARY,  
1857.



BURLINGTON:  
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1856.

# ORDINANCE

## OF THE

### COUNCIL OF CENSORS.

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STATE OF VERMONT, }  
IN COUNCIL OF CENSORS, FEBRUARY, 1856. }

The Council having agreed to propose certain amendments to the Constitution of this State, and having determined to call a Convention to consider such amendments :

Therefore, it is ordered by said Council, that a Convention of the people of the State of Vermont shall meet at the State House in Montpelier, on the first Wednesday in January, A. D. 1857, to consider of the amendments to the Constitution proposed by this Council, and adopt the same or such parts thereof as the said Convention shall judge will be most conducive to the good government, peace and happiness of the people of the State. Said Convention may consist of ninety delegates, and no more ; to be apportioned to the several Counties in the State, as follows, to wit : Addison county, seven ; Bennington county, six ; Caledonia county seven ; Chittenden county, eight ; Essex county, three ; Franklin county, eight ; Grand Isle county, three ; Lamoille county, four ; Orange county, seven ; Orleans county, five ; Rutland county, eight ; Washington county, seven ; Windham county, eight ; Windsor county, nine ; to be elected by the freemen of said counties respectively.

The first constable, or, in his absence, the town clerk, or, in his absence, one of the selectmen of each town in this State, entitled to send a representative to the General Assembly, without further order, shall set up a notification at such place or places as shall have been appointed for notifying town meetings in such town, at least six days before the first Tuesday in November, A. D. 1856, warning the freemen of their respective towns to meet on said first Tuesday in November, A. D. 1856, at one o'clock in the afternoon, at the place where the last freemen's meeting was held in such town, for the purpose of electing said delegates ; at the opening of which meeting this order shall be publicly read.

The first constable, or, in his absence or disability, the town clerk, or some one of the selectmen of each town, or a Justice of the Peace, shall preside at such meeting, whose duty it shall be to call on the freemen of

such town from time to time for the space of four hours, to give in their votes for such delegates; and every person legally qualified to vote, shall, in his own proper person, present to the presiding officer, on one ballot, his vote with the names of the persons whom he would elect, fairly written or printed thereon. Said votes shall be received in the same manner and under the same regulations, as is by law provided in the case of electing Senators to the State Senate. At the expiration of the time aforesaid, the votes so taken shall be, by said presiding officer, with the assistance of the selectmen and justices of the peace in such town, sorted and counted, and a list of the persons voted for, with the number of votes for each person, shall be made, which said list, signed by the presiding officer and town clerk, if present, shall be recorded in the town clerk's office. And said presiding officer, at the same time, shall make another similar list, which, attested and signed by himself and the town clerk, if present at such meeting, he shall seal up and superscribe with the name of the town in which said votes were given, and the following words, *Votes for Delegates to the Constitutional Convention*, and shall deliver the same to the county clerk for the same county within ten days from the time of holding said meeting.

It shall be the duty of the County Clerk of each county respectively, or in his absence or disability, the Sheriff of such county, or in the absence or disability of both, the High Bailiff of such county, on the tenth day after such election, to publicly open, sort and count said votes and make a record of the same in the office of the Clerk of the County Court, and shall within ten days thereafter transmit to each of the persons having the greatest number of votes a certificate of his election. And if two or more persons shall have received an equal number of votes, the County Clerk shall certify the same to said Convention, and the Convention shall designate one of said persons to fill the vacancy.

The certificate of votes for delegates, to be delivered by the presiding officer to the County Clerk as aforesaid, shall be, as near as circumstances will admit, in the form, following, to wit:

At a freemen's meeting, legally warned and holden at ————, in the State of Vermont, on the first Tuesday in November, A. D. 1856, the votes for delegates to the Constitutional Convention, having been duly taken, sorted and counted, the following persons had the number of votes annexed to their names respectively. (Here insert the names of the persons voted for, and the number of votes given for each person.)

Attest, A. B., First Constable.

C. D., Town Clerk.

DAVID HIBBARD, *President*.

JAMES M. SLADE, *Secretary*.

# JOURNAL.

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On the first Wednesday, being the seventh day, of January, A. D. 1857, pursuant to the Ordinance of the Council of Censors, made "February, 1856," and herewith printed, the Delegates from the several Counties in the State of Vermont assembled in Convention at Montpelier, to take such action as they might deem appropriate, in view of said Ordinance, and of the Amendments to the Constitution proposed by the said Council of Censors.

The Convention was called to order by CHAS. K. FIELD, and, on motion of D. W. C. CLARKE,

LOYAL C. KELLOGG, of Rutland County, was appointed President *pro tempore*.

On motion of E. D. MASON,

D. W. C. CLARKE, of Chittenden County, was appointed Secretary *pro tempore*, and

On motion of Mr. NICHOLSON,

CLARK H. CHAPMAN, of Windsor County, was appointed Assistant Secretary, *pro tempore*.

Mr. BAILEY presented the following resolution, which was read :

*Resolved*, That immediately after the adjournment of this Convention, each Delegate be requested to furnish to the Secretary the Credentials of his election.

Mr. D. W. C. CLARKE, moved to amend by striking out the words, "after the adjournment of this Convention :"

Which motion was agreed to, and the resolution as amended, was thereupon adopted.

Mr. KITTRIDGE moved that the Convention adjourn till 2 o'clock P. M.

And the motion was not agreed to.

On motion of Mr. HEBARD, the Secretary proceeded to call the several Counties, in order, and Credentials of the following named gentlemen, as Delegates to the Convention from the several Counties, were presented, to wit:

ADDISON COUNTY, (7 Delegates.)	{	W. F. BASCOM,	Middlebury.
		R. J. JONES,	Cornwall.
		BELA HOWE,	Shoreham,
		JNO. CAPEN,	Goshen.
		A. T. SMITH,	Monkton.
		OLIVER SMITH,	New Haven.
		HORATIO NEEDHAM,	Bristol.

BENNINGTON COUNTY, (6 Delegates.)	{	ELIJAH BARBER,	Pownall.
		ALONZO HINS DILL,	Bennington.
		BENJ. F. OLIN,	Shaftsbury.
		C. C. WHEELOCK,	Winhall.
		B. F. McLAUGHLIN,	Sunderland.
		(One wanting.)	

CALEDONIA COUNTY. (7 Delegates.)	{	AND. McMILLAN,	Danville.
		MOSES KITTRIDGE,	St. Johnsbury
		TH. J. CREE,	Wheelock.
		A. E. JUDEVINE,	Hardwick.
		GEO. COWLES,	Ryegate.
		J. C. TIBBETTS,	Sutton.
		THOS. BARTLETT, Jr.,	Lyndon.

CHITTENDEN COUNTY, (8 Delegates.)	{	HECTOR ADAMS,	Milton.
		WYLLYS LYMAN,	Burlington.
		TRUMAN GALUSHA,	Jericho.
		D. W. C. CLARKE,	Shelburne,
		E. D. MASON,	Richmond.
		PHILO CLARK,	Williston.
		JACOB ROLFE,	Colchester.
		A. J. CRANE,	Huntington.

ESSEX COUNTY.  
(3 *Delegates.*)

{ JNO. DEWEY, *Maidstone.*  
JONAH BROOKS, *Lunenburg.*  
ASA HIBBARD, *W. Concord.*

FRANKLIN COUNTY,  
(8 *Delegates.*)

{ ALFRED KEITH, *Sheldon.*  
BRADLEY BARLOW, *Fairfield.*  
CHAS. FELTON, *Franklin.*  
SAM'L H. STEVENS, *Enosburgh.*  
HIRAM RAWSON, *Montgomery.*  
WM. L. SOWLES, *Swanton.*  
J. H. FARNSWORTH, *Fairfax.*  
A. G. SOULE, *St. Albans.*

GRAND ISLE COUNTY,  
(3 *Delegates.*)

{ HORACE WADSWORTH, *S. Hero.*  
REUBEN HYDE, *N. Hero.*  
FREDERICK HAZEN, *Alburgh.*

LAMOILLE COUNTY,  
(4 *Delegates.*)

{ GEO. WILKINS, *Stowe.*  
V. W. WATERMAN, *Morristown.*  
W. G. FERRIN, *Hydepark.*  
ALEX. RIDDLE, *Johnson.*

ORANGE COUNTY,  
(7 *Delegates.*)

{ WM. HEBARD, *Chelsea.*  
L. HINCKLEY, *Thetford.*  
ARAD STEBBINS, *Bradford.*  
R. M. BILL, *Topsham.*  
A. E. FIELD, *Washington.*  
JAS. HUTCHINSON, Jr., *Braintree.*  
K. P. HOWARD, *Randolph.*

ORLEANS COUNTY,  
(5 *Delegates.*)

{ ELIJAH CLEVELAND, *Coventry.*  
NELSON RAND, *Craftsbury.*  
HORACE PIERCE, *Barton.*  
FREDERICK FULLER, *Troy.*  
J. L. EDWARDS, *Derby.*

RUTLAND COUNTY,  
(8 *Delegates.*)

{ LOYAL C. KELLOGG, *Benson.*  
A. W. GRAY, *Middletown.*  
D. E. NICHOLSON, *Wallingford.*  
J. B. BROMLEY, *Pawlet.*  
DAVID HALL, *Pittsford.*  
JOHN B. BEAMAN, *Poultney.*  
E. B. ROCKWELL, *Pittsfield.*  
(One wanting.)

WASHINGTON COUNTY, (7 <i>Delegates.</i> )	{	O. H. SMITH,	<i>Montpelier.</i>
		PAUL DILLINGHAM,	<i>Waterbury.</i>
		SAM'L CHIPMAN,	<i>Waitsfield.</i>
		GEO. W. BAILEY,	<i>Middlesex.</i>
		JOSEPH A. WING,	<i>Plainfield.</i>
		LEONARD KEITH,	<i>Barre.</i>
		ASA GEORGE,	<i>Calais.</i>
WINDHAM COUNTY, (8 <i>Delegates.</i> )	{	WM. C. BRADLEY,	<i>Westminster.</i>
		CHAS. K. FIELD,	<i>Newfane.</i>
		WM. HARRIS,	<i>Windham.</i>
		R. W. CLARKE,	<i>Brattleboro'.</i>
		A. STODDARD,	<i>Townshend.</i>
		S. P. FLAGG,	<i>Wilmington.</i>
		H. F. BALLOU,	<i>Whitingham.</i>
WINDSOR COUNTY, (9 <i>Delegates.</i> )	{	JNO. E. BUTLER,	<i>Jamaica.</i>
		JOSEPH DODGE,	<i>Andover.</i>
		DAN'L DENISON,	<i>Hartland.</i>
		JNO. WRIGHT,	<i>Norwich.</i>
		S. A. WEBBER,	<i>Rochester.</i>
		JAIRUS JOSSELYN,	<i>Plymouth.</i>
		M. B. PERKINS,	<i>W. Windsor.</i>
	{	OTIS CHAMBERLAIN,	<i>Pomfret.</i>
		RUFUS FORBUSH,	<i>Reading.</i>
		CLARK H. CHAPMAN,	<i>Cavendish.</i>

On motion of Mr. BALLOU, the Convention adjourned till 2 o'clock this P. M.

## AFTERNOON.

2 O'CLOCK.

The Convention was called to order.

The Roll of Delegates was read by the Secretary, and the whole number enrolled answered to their names, showing the entire number of Delegates to be present, with the excep-

tion of one from Bennington County, and one from Rutland County.

On motion of Mr. NICHOLSON, it was

*Ordered*, That A. C. BEEBE, of Rupert, a Delegate elect for the County of Bennington, and JESSE L. BILLINGS, of Rutland, a Delegate elect for the County of Rutland, be admitted to their seats in this Convention without producing their Credentials;

Whereupon, Messrs. BEEBE and BILLINGS appeared and took their seats.

On motion of Mr. BASCOM, it was

*Ordered*, That the Convention now proceed to ballot for a President, Secretary and Assistant Secretary, to complete its permanent organization;

Whereupon, the ballots having been taken and examined, it appeared that

LOYAL C. KELLOGG,

a Delegate from the County of Rutland, was elected President.

On motion of Mr. ADAMS, and by unanimous assent, the balloting for Secretary and Assistant Secretary was dispensed with, and, on the nomination of Mr. MASON,

D. W. C. CLARKE,

a Delegate from the County of Chittenden, was elected Secretary, and, on the nomination of Mr. WRIGHT,

CLARK H. CHAPMAN,

a Delegate from the County of Windsor, was elected Assistant Secretary.

Mr. NICHOLSON offered the following resolution, which was read, and, on motion of Mr. C. K. FIELD, ordered to lie upon the table:



*Resolved*, That, on Friday next, at 7 o'clock A. M., this Convention will adjourn without day.

Mr. ADAMS offered the following resolution, which was read :

*Resolved*, That the Rules of the Convention of 1850 be adopted as the Rules of this Convention (except Rule XVII) until others shall be adopted.

Mr. BALLOU moved to amend by striking out the words and figures, "except Rule XVII ;"

And the motion was not agreed to,

And the resolution was thereupon adopted.

The said Rules are as follows :

I. The Convention shall meet daily, except Sundays, at 9 o'clock in the forenoon, and at 2 o'clock in the afternoon, if not otherwise ordered.

II. The President, after calling the Convention to order, shall, before proceeding to business, cause the journals of the preceding day to be read and corrected. He shall preserve order, and speak on, and decide all questions of order, subject to an appeal to the Convention ; and in case of disturbance in any part of the Capitol, he shall cause the offenders to be removed therefrom.

III. The President shall nominate all Committees, subject to the approval of the Convention.

IV. The President may call on a member to perform the duties of the Chair, when he may wish to participate in debate, or temporarily to retire.

V. Every member speaking in debate shall, standing in his place uncovered, address the President, and when he has finished, sit down.

VI. The member first addressing the President, in order, and designated by him, shall be entitled to the floor.

VII. No member shall speak more than twice on the same question, without leave of the Convention, and members who have once

spoken shall not again be entitled to the floor, (unless to explain,) to the exclusion of such as have not spoken.

VIII. No member shall audibly speak to another, or otherwise interrupt the Convention, while the journals, or other matters before the Convention, are being read, or while a member is orderly speaking in debate.

IX. No member shall absent himself from the Convention without leave, unless sick, or otherwise necessarily detained.

X. The yeas and nays shall be taken on the call of a member, and every member present shall vote on the final adoption of the proposed amendments to the Constitution, and on other questions, unless excused, or absent when the question was stated.

XI. It shall be in order for a member, in the majority, on any vote, to move a re-consideration thereof, but not for one in the minority.

XII. Motions shall be sustained in the following order, on resolutions :

1. To dismiss.
2. To postpone to a certain day.
3. To lay on the table.
4. To commit.
5. To amend.

XIII. A motion to adjourn shall always be in order, and be determined without debate.

XIV. If a member be called to order for violating the Rules of the Convention, he shall sit down until the question of order be determined, unless permitted to explain.

XV. The proceedings of the Convention, except when acting as a Committee of the Whole, embracing the names of the members and the votes which they give, on every question, shall be, by the Secretary, accurately and concisely stated in the Journals.

XVI. The Governor, Lieutenant Governor, Treasurer, Secretary of State, Secretary to the Governor, Senators, Members of Congress, Judges of the Supreme Court, the District Judge, Attorney, Marshal

and Collector of the United States, the late Council of Censors, and such as have previously held these offices, the Clergy, and such persons as may be introduced by a member, shall be admitted to seats on the floor of the Convention.

XVII. The President shall appoint a Door-Keeper and all other necessary officers; and shall request the Sergeant-at-Arms to attend upon the Convention.

XVIII. The preceding Rules shall be observed in Committee of the Whole, so far as they are applicable.

Mr. LYMAN introduced the following resolution, which was read and adopted :

*Resolved*, That the Convention now proceed to appoint a Sergeant-at-Arms, who shall appoint, subject to the approval of the President, a Door-keeper and four Messengers, as officers of this Convention.

Whereupon, and on the nomination of Mr. LYMAN, WILLIAM T. BURNHAM, Esq., of Montpelier, was unanimously appointed Sergeant-at-Arms.

Mr. BALLOU introduced the following resolution, which was read and adopted :

*Resolved*, That the President be requested to invite the resident Clergymen of Montpelier, in rotation, to officiate as Chaplains of this Convention.

Mr. DILLINGHAM introduced the following resolution, which was read :

*Resolved*, That a Committee of one from each County be appointed, to consider and report to the Convention such action on the Amendments to the Constitution proposed by the Council of Censors as they may deem appropriate.

Mr. BASCOM moved to lay the resolution on the table.

And the motion was not agreed to,

Whereupon, the resolution was adopted.

The PRESIDENT announced his nomination of the fol-

lowing named Delegates to constitute the Committee just ordered, and the nomination was approved, to wit:

Mr. DILLINGHAM, of *Washington County*.

Mr. BRADLEY, of *Windham* “

Mr. OLIN, of *Bennington* “

Mr. NICHOLSON, of *Rutland* “

Mr. WEBBER, of *Windsor* “

Mr. HEBARD, of *Orange* “

Mr. NEEDHAM, of *Addison* “

Mr. LYMAN, of *Chittenden* “

Mr. BARLOW, of *Franklin* “

Mr. WADSWORTH, of *Grand Isle* “

Mr. WATERMAN, of *Lamoille*, “

Mr. CLEVELAND, of *Orleans* “

Mr. BARTLETT, of *Caledonia* “

Mr. DEWEY, of *Essex* “

On motion of Mr. NICHOLSON, it was

*Ordered*, That a Committee of one from each County be appointed to make up, receive, and disburse the debentures of the Convention.

The PRESIDENT laid before the Convention the following telegraphic communication from the Select Men of the town of Burlington:

“ Burlington, Jan. 7, 1857.

To the Constitutional Convention :

The Select Men of Burlington, in view of the destruction, last evening, of the State House in Montpelier, respectfully tender the use of the Town Hall of Burlington to the Convention.

J. N. POMEROY,

M. L. CHURCH,

JNO. B. WHEELER.”

On motion of Mr. SOWLES,

The Convention adjourned.

THURSDAY, JAN. 8 1857.

Prayer by the Rev. Mr. BALLOU.

The Convention was called to order, and the Journal of yesterday was read and approved.

The PRESIDENT nominated the following named Delegates as the Committee on Debentures, and they were appointed, to wit:

MR. KEITH,	of	<i>Franklin</i>	<i>County.</i>
Mr. HINS DILL,	of	<i>Bennington</i>	"
Mr. CLARKE,	of	<i>Windham</i>	"
Mr. BEAMAN,	of	<i>Rutland</i>	"
Mr. DODGE,	of	<i>Windsor</i>	"
Mr. STEBBINS,	of	<i>Orange</i>	"
Mr. JONES,	of	<i>Addison</i>	"
Mr. CRANE,	of	<i>Chittenden</i>	"
Mr. WING,	of	<i>Washington</i>	"
Mr. RIDDLE,	of	<i>Lamoille</i>	"
Mr. HAZEN,	of	<i>Grand Isle</i>	"
Mr. EDWARDS,	of	<i>Orleans</i>	"
Mr. CREE,	of	<i>Caledonia</i>	"
Mr. HIBBARD,	of	<i>Essex</i>	"

The SECRETARY laid before the Convention a paper, purporting to be the Credentials of ROGER G. BULKLEY, as a Delegate from the town of Moretown, which paper is as follows:

"At a Freeman's meeting legally warned and holden at  
 "Moretown, in the State of Vermont, on the first Tuesday in  
 "November, A. D. 1856, ROGER G. BULKLEY was duly elected a Delegate to represent the town of Moretown in the  
 "Constitutional Convention, by a majority of the Freemen  
 "present.

"Given under my hand at Moretown this 4th day of November A. D. 1856.

"Attest, Austin C. Winship, First Constable."

Mr. D. W. C. CLARKE presented the following resolution, which was read and ordered to lie upon the table:

*Resolved*, that the paper presented does not constitute the necessary Credentials to entitle ROGER G. BULKLEY to a seat in this Convention.

Mr. MASON introduced the following resolution, which was read:

*Resolved*, That ROGER G. BULKLEY, claiming to be a Delegate elect from the town of Moretown, in the County of Washington, be admitted as a member of this Convention.

Mr. HEBARD moved to lay the resolution on the table.

The motion was not agreed to.

And, on motion of Mr. C. K. FIELD, it was

*Ordered*, That ROGER G. BULKLEY be permitted to be heard on the floor of the Hall in behalf of his claims to a seat.

Mr. BULKLEY thereupon addressed the Convention, and, thereupon, on motion of Mr. ROCKWELL, it was

*Ordered*, That the resolution lie upon the table.

On motion of Mr. JOSSELYN,

The Convention adjourned.

#### AFTERNOON.

The Convention was called to order.

The PRESIDENT announced that the Sergeant-at-Arms had appointed JOHN WILSON, Door-keeper, and E. J. BATES, JNO. P. DEMERITT, WM. P. THOMPSON, and JAS. STEARNS, Messengers, and that the said appointments are approved.

Mr. DILLINGHAM, for the Committee appointed to consider and report such action in regard to the Amendments to the Constitution proposed by the Council of Censors as they may deem appropriate, submitted the following :

The Committee appointed to report what action is appropriate on the proposed amendments,

### REPORT :

That the amendments are numerous and important ; that they contemplate many and radical changes in our present Constitution. We decline expressing any opinion on the merits or demerits of the proposed amendments. Our attention has been directed mainly to the Ordinance under which this Convention was called and elected. In that Ordinance the Council of Censors limited the number of the Delegates to ninety. This number is apportioned among the several Counties, by the Ordinance, and the election made by a *plurality* vote.

This wide departure from all former precedent or usage, to us seems strange and startling.

On the first Wednesday of June, 1777, the Convention which declared the Independence of Vermont, met, according to previous adjournment, at Windsor. At that meeting a Committee was appointed to make a draft of a Constitution, and a resolution was adopted recommending to *each town* to choose Delegates to meet in Convention at Windsor on the second day of July following. On the second day of July, 1777, *that* Convention, so called, met at Windsor, and by adjournment, was continued along till December of the same year, when it adopted the first Constitution of Vermont.

In the preamble to that Constitution, the Convention declared that it "should remain in force, forever, *unaltered*, except in such articles as shall, hereafter, on experience, be found to require improvement, *and which shall, by the same*

*authority of the people, fairly delegated*, as this frame of government directs, be amended and improved."

That Constitution ordained that the House of Representatives should consist of freemen, chosen by the freemen of *every town* in the State, respectively.

The 44th section of the same Constitution provided for a *Council of Censors* and defined their powers. That section has never been altered. Among the powers granted to this Council, is that of calling future Conventions, to consider proposed amendments to the Constitution. It did not, *by words*, define the number to compose a Convention, or give the Council authority to do so. A Convention of Delegates might consist of a thousand, or ten. Did the framers of the article under consideration mean the one or the other, or did they mean to submit *that* question to the discretion or caprice of the Council? We think they meant neither.

At that day, towns, in their corporate and municipal character, were objects of special regard. They were the horn of strength to the then struggling commonwealth. There, men discussed their rights and prepared to maintain them; there and there only they could vote in the aggregate; there, express their sentiments on all subjects touching the general interest; there, give instructions to Delegates and perpetuate the same by record; and in all these particulars, towns, as such, should be no less the object of special regard now.

But what may we safely assume, as the undoubted intention and expectation of the framers of that article of the Constitution? *They* had been elected from *every town*—they regarded the rights of the towns with great veneration—and in their preamble, as a key to their intention, had said no alteration should ever be made, "*except by the same authority of the people, fairly delegated.*"

We feel warranted in the conclusion that *that* Convention



neither *expected*, *intended*, nor even contemplated the possibility, that any future Convention should be called in a different manner from themselves; and their views and *intent* seem to have been entertained, approved and acted upon ever since.

The Council of Censors, chosen in 1785, proposed amendments to the Constitution, and called a Convention composed of one Delegate from *each town* in the State; and such has been the uniform practice in all Conventions called since, till the present one.

We feel satisfied that this primary intention of the framers of our Constitution, which has not only been acquiesced in, but most cordially approved, cherished and revered, by the people of this State, for three quarters of a century, should *now* be received as an authoritative construction of that provision, not to be denied or departed from.

We, therefore, recommend to this Convention the adoption of the accompanying resolutions.

PAUL DILLINGHAM,  
WM. C. BRADLEY,  
SUMNER A. WEBBER,  
BENJ. F. OLIN,  
DAVID E. NICHOLSON,  
HORATIO NEEDHAM,  
WYLLYS LYMAN,  
BRADLEY BARLOW,  
V. W. WATERMAN,  
HORACE WADSWORTH,  
ELIJAH CLEVELAND,  
JOHN DEWEY,  
THOMAS BARTLETT, JR.

## RESOLUTIONS.

I. *Resolved*, That in view of the language used by the original framers of the Constitution in a Convention held for that purpose ; of the fact that the same Convention was composed of Delegates from the several towns in this State; that every Convention since held has been composed of members elected in a similar manner; that amendments when proposed were directed to be promulgated at least six months before the day appointed for the election of such Convention, for the previous consideration of the people, *that they might have an opportunity of instructing their Delegates on the subject*; that then as well as now the towns were competent to hold meetings required by law, pass votes of instruction and certify the same through their regularly constituted officers, which the counties and mere territorial jurisdictions have never been authorized to do: in view of these and other reasons, this Convention is satisfied that by creating a new constituency and transferring the right of delegation from the respective towns to the counties, the late Council of Censors acted unwisely, and exceeded the powers devolved upon them by the Constitution, as heretofore practically interpreted.

II. *Resolved*, That if there is no specific provision in the Constitution prescribing the whole manner of electing members to the Conventions, the principle of town representation is too fully indicated to be thus invaded or assailed, more especially as under it for more than seventy years the State has found order and stability, and the people have enjoyed prosperity and safety; and forasmuch as on various occasions the general provisions of the Constitution have been carried out in detail by legislative action, it is recommended to the coming legislature of this State to make some provision so that whenever any future Council of Censors shall decide upon calling a Convention, and fix the time of the meeting thereof, and of electing delegates thereto, the proper officers of each town may take measures for holding the meetings in each town, electing the Delegate of such town, and certifying his election, as near as may be in the same manner now prescribed for the election of the Representative of such town in the General Assembly of the State.

III. *Resolved*, That our constituents, in electing Delegates to this Convention in the manner prescribed by the Ordinance of the late Council of Censors, did not so do for the purpose of acknowledging the validity of, or confirming, the same Ordinance, but the rather, by expressing themselves through organs chosen in the very manner selected by the Council, to express more emphatically their reprobation of the action of the Council in the premises.

IV. *Resolved*, That as the amendments proposed by the Council will necessarily fail and be virtually rejected by the people unless duly confirmed—this Convention sees no occasion to take any further action in relation thereto.

The resolutions were read, and Mr. C. K. FIELD moved that they lie upon the table, and that the Secretary procure to be printed 300 copies of the same, with the Report, for the use of the Convention;

Mr. ADAMS moved to amend by inserting "500" instead of "300," and the amendment was accepted by the mover, and the motion, thereupon, agreed to.

On motion of Mr. D. W. C. CLARKE,  
The Convention adjourned.

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FRIDAY, JAN. 9, 1857.

Prayer by the Rev. Mr. HEMENWAY.

The Convention was called to order, and the Journal of yesterday was read and approved.

Mr. NICHOLSON presented the following resolution, which was read :

*Resolved*, That at 12 o'clock, noon, this day, this Convention will adjourn without day.

Mr. CHAPMAN moved to amend by striking out the words, "at 12 o'clock, noon, this day," and inserting the words, "on Monday morning next, at 7 o'clock."

Mr. C. K. FIELD moved that the Convention adjourn;

And the motion was not agreed to;

And the question recurring on the amendment, Mr. NICHOLSON accepted the same;

The question being, Shall the resolution be adopted?

Mr. JUDEVINE demanded the Yeas and Nays.

Mr. C. K. FIELD moved that the resolution lie upon the table ;

Pending this motion, and on motion of Mr. BARLOW, the Convention adjourned till five minutes before 2 P. M.

## AFTERNOON

5 MINUTES BEFORE 2 O'CLOCK.

The Convention was called to order.

The PRESIDENT stated the question pending on the adjournment this morning, to wit : Shall the resolution, providing that the Convention will adjourn without day on Monday morning next, be laid upon the table ?

And it was

*Ordered*, That the resolution lie upon the table.

On motion of Mr. BARTLETT, the resolutions on the table, reported by the Committee on the proposed Amendments to the Constitution, were taken up, and the Convention went into Committee of the Whole to consider the same.

Mr. LYMAN was called to the Chair, and after some time spent in Committee of the Whole, the Committee rose and reported said resolutions to the Convention, and recommended the adoption of the same.

Pending this question, on motion of Mr. ADAMS,

The Convention adjourned till half past 6 o'clock this evening.

## EVENING.

HALF PAST 6 O'CLOCK.

The Convention was called to order.

The PRESIDENT stated the question pending, to wit: Shall the resolutions, recommended by the Committee of the Whole, be adopted?

And, on motion of Mr. CHAPMAN, said resolutions were *Ordered*, to lie upon the table.

On motion of Mr. CHAPMAN, the resolution on the table, providing for the final adjournment of the Convention, was taken up;

Mr. JUDEVINE moved to amend the same by striking out "Monday," and inserting "Saturday;"

The motion was not agreed to, and, the demand for the Yeas and Nays being withdrawn, the resolution was adopted.

Mr. JUDEVINE presented the following resolution, which was read and adopted:

*Resolved*, That the Committee on Debentures, be instructed to make up and pay over to Roger G. Bulkley, of Moretown, his proper debenture, for travel, and attendance on this Convention.

Mr. C. K. FIELD, presented the following resolution, which was read and adopted:

*Resolved*, That the Secretary procure to be printed 1500 copies of the Journal of this Convention, and of the copies so printed, there shall be distributed as follows: To the Librarian, for the State Library, 50 copies; to the Secretary of State, 5 copies; to the Secretary of the Senate, 5 copies; to

the Clerk of the House, 5 copies; to each of the following officers and institutions, one copy:—The Governor, Lieutenant Governor, Treasurer, Secretary of Civil and Military Affairs, Auditor of Accounts, Auditor in the Treasury Department, the Judges, Clerks and Registers of the Supreme, County and Probate Courts, the Senators and Representatives in Congress from this State, the Members of this Convention, and of the last Council of Censors, all Sheriffs, State's Attorneys, Town Clerks, and First Constables, the University of Vermont, Middlebury College, Norwich University, the Vermont Historical and Antiquarian Society, all incorporated Academies in the State, and one copy to each newspaper in the State; and that the residue of such copies be deposited in the office of the Secretary of State, to be kept for distribution, as the General Assembly may direct.

Mr. C.K. FIELD presented the following resolution, which was read and adopted :

*Resolved*, That the Committee on Debentures allow and pay to the Secretary, fifty dollars, in compensation for the services required, by order of the Convention, in procuring to be printed, and in distributing, the Journal of this Convention.

On motion of Mr. SOWLES, the resolutions on the table, reported by the Committee of the Whole, were taken up for consideration ;

On motion of Mr. BASCOM, it was

*Ordered*, That the question be taken upon each of said resolutions separately.

And the question being on the adoption of the *first* resolution,

Mr. STODDARD stated that the Hon. Mr. BRADLEY, a Delegate from the County of Windham, was prevented by indisposition from attending upon the deliberations of the Convention, this evening, and that he (Mr. BRADLEY) respectfully requested that his name should be recorded on the Journal in the affirmative, upon each of the resolutions reported by the Committee;

And the request was unanimously acceded to, and the Secretary instructed so to record the name of Mr. BRADLEY.

The question recurring, Shall the *First* resolution be adopted?

It was decided in the Affirmative. { Yeas, 76.  
Nays, 11.

Nays, 11.

The Yeas and Nays, being demanded by Mr. FERRIN, are as follows:

Those gentlemen who voted in the Affirmative, are

Messrs ADAMS, BAILEY, BALLOU, BARBER, BARLOW, BEAMAN, BEEBE, BILL, BILLINGS, BRADLEY, BROMLEY, BROOKS, BUTLER, CAPEN, CHAMBERLAIN, CHIPMAN, D. W. C. CLARKE, R. W. CLARKE, PHILO CLARK, CLEVELAND, COWLES, CRANE, CREE, DENISON, DEWEY, DILLINGHAM, EDWARDS, FELTON, FERRIN, A. E. FIELD, C. K. FIELD, FLAGG, FORBUSH, FULLER, GALUSHA, GEORGE, GRAY, HALL, HARRIS, HAZEN, HINCKLEY, HINS DILL, HUTCHINSON, HYDE, JOSSELYN, JUDEVINE, A. KEITH, L. KEITH, KELLOGG, KITTREDGE, LYMAN, MASON, McLAUGHLIN, NEEDHAM, NICHOLSON, OLIN, PIERCE, RAND, RAWSON, RIDDLE, ROCKWELL, ROLFE, A. T. SMITH, O. H. SMITH, SOULE, STEBBINS, STEVENS, STODDARD, TIDBETTS, WADSWORTH, WATERMAN, WEBBER, WHEELER, WILKINS, WING, and WRIGHT.

Those gentlemen who voted in the Negative, are

Messrs. BASCOM, CHAPMAN, DODGE, HIBBARD, HOWARD, HOWE,  
JONES, Mc'MILLAN, PERKINS, O. SMITH, and SOWLES.

So the *First* resolution was adopted as follows:

*I. Resolved*, That in view of the language used by the original framers of the Constitution in a Convention held for that purpose; of the fact that the same Convention was composed of Delegates from the several towns in this State; that every Convention since held has been composed of members

elected in a similar manner; that amendments, when proposed, were directed to be promulgated at least six months before the day appointed for the election of such Convention, for the previous consideration of the people, *that they might have an opportunity of instructing their Delegates on the subject*; that then, as well as now, the towns were competent to hold meetings required by law, pass votes of instruction, and certify the same through their regularly constituted officers, which the Counties and mere Territorial jurisdictions have never been authorized to do; in view of these and other reasons, this Convention is satisfied that by creating a new constituency, and transferring the right of delegation from the respective towns to the counties, the late Council of Censors acted unwisely, and exceeded the powers devolved upon them by the Constitution, as heretofore practically interpreted.

And the question being, Shall the *Second* resolution be adopted?

It was decided in the Affirmative. { Yeas, 76.  
Nays, 11.

The Yeas and Nays being demanded by Mr. BALLOU, are as follows:

Those gentlemen who voted in the Affirmative, are

Messrs ADAMS, BAILEY, BALLOU, BARBER, BARLOW, BEAMAN, BEEBE, BILL, BILLINGS, BRADLEY, BROMLEY, BROOKS, BUTLER, CAPEN, CHAMBERLAIN, CHIPMAN, D. W. C. CLARKE, R. W. CLARKE, P. CLARK, CLEVELAND, COWLES, CRANE, CREE, DENISON, DEWEY, DILLINGHAM, EDWARDS, FELTON, A. E. FIELD, C. K. FIELD, FLAGG, FORBUSH, FULLER, GALUSHA, GEORGE, GRAY, HALL, HARRIS, HAZEN, HIBBARD, HINCKLEY, HINS DILL, HUTCHINSON, HYDE, JOSSELYN, JUDEVINE, A. KEITH, L. KEITH, KITTREDGE, LYMAN, MASON, McLAUGHLIN, NEEDHAM, NICHOLSON, OLIN, PIERCE, RAND, RAWSON, RIDDLE, ROCKWELL, ROLFE, A. T. SMITH, O. SMITH, O. H.



SMITH, SOULE, STEBBINS, STEVENS, STODDARD, TIBBETTS, WADSWORTH, WATERMAN, WEBBER, WHEELER, WILKINS, WING, and WRIGHT.

Those gentlemen who voted in the Negative, are

Messrs. BASCOM, CHAPMAN, DODGE, FERRIN, HOWE, HOWARD, JONES, KELLOGG, McMILLAN, PERKINS, and SOWLES.

So the *Second* resolution was adopted, as follows :

II. *Resolved*, that if there is no specific provision in the Constitution, prescribing the whole manner of electing members to the Conventions, the principle of town representation is too fully indicated to be thus invaded or assailed ; more especially, as under it, for more than seventy years, the State has found order and stability, and the people have enjoyed prosperity and safety ; and forasmuch as, on various occasions, the general provisions of the Constitution have been carried out in detail by legislative action, it is recommended to the coming legislature of this State, to make some provision, so that whenever any future Council of Censors shall decide upon calling a Convention, and fix the time of the meeting thereof, and of electing Delegates thereto, the proper officers of each town may take measures for holding the meetings in each town, electing the Delegate of such town, and certifying his election, as near as may be in the same manner now prescribed for the election of the Representatives of such town in the General Assembly of the State.

And the question being, Shall the *Third* resolution be adopted ?

It was decided in the Affirmative. { Yeas, 72.  
  { Nays, 17.

The Yeas and Nays, being demanded by Mr. NICHOLSON, are as follows :

Those gentlemen who voted in the Affirmative, are

Messrs. ADAMS, BAILEY, BALLOU, BARBER, BARLOW, BEAMAN, BEEBE, BILL, BILLINGS, BRADLEY, BROMLEY, BROOKS, BUTLER, CHAMBERLAIN, CHIPMAN, D. W. C. CLARKE, R. W. CLARKE, PHILO CLARK, CLEVELAND, COWLES, CRANE, DENISON, DEWEY, DILLINGHAM, EDWARDS, FARNSWORTH, FELTON, FERRIN, A. E. FIELD, C. K. FIELD, FLAGG, FULLER, GALUSHA, GEORGE, GRAY, HARRIS, HAZEN, HINCKLEY, HINSDILL, HUTCHINSON, HYDE, JOSSELYN, JUDEVINE, A. KEITH, L. KEITH, KELLOGG, KITTRIDGE, LYMAN, MASON, McLAUGHLIN, NEEDHAM, NICHOLSON, OLIN, PIERCE, RAND, RAWSON, ROCKWELL, ROLFE, A. T. SMITH, O. H. SMITH, SOULE, STEBBINS, STEVENS, STODDARD, TIBBETTS, WADSWORTH, WATERMAN, WEBBER, WHEELER, WILKINS, WING, and WRIGHT.

Those gentlemen who voted in the Negative, are

Messrs. BASCOM, CAPEN, CHAPMAN, CREE, DODGE, FORBUSH, HALL, HEBARD, HIBBARD, HOWARD, HOWE, JONES, McMILLAN, PERKINS, RIDDLE, O. SMITH, and SOWLES.

So the *Third* resolution was adopted, as follows :

III. *Resolved*, That our constituents, in electing Delegates to this Convention in the manner prescribed by the Ordinance of the late Council of Censors, did not so do for the purpose of acknowledging the validity of, or confirming, the same Ordinance, but the rather, by expressing themselves through organs chosen in the very manner selected by the Council, to express more emphatically their reprobation of the action of the Council in the premises.

And the question being, Shall the *Fourth* resolution be adopted ?

Mr. HEBARD moved to strike out the entire resolution, and insert as follows :

“Whereas, the present Convention has been elected upon

and different basis from that heretofore practised, and the mode of electing the Delegates is different from the uniform usage of all former Councils of Censors; and inasmuch as the power of the Council of Censors to call a Convention, different from the uniform course heretofore adopted and acquiesced in, has been questioned, and may be regarded as doubtful;—Therefore,

*Resolved*, That it is inexpedient further to consider the Amendments to the Constitution, as proposed by the Council of Censors, and the same are hereby rejected;”

The PRESIDENT ruled the motion to be not in order.

Mr. BASCOM moved to amend by striking out all after the word “Resolved,” and inserting as follows:

“That it is inexpedient to adopt the amendments to the Constitution proposed by the Council of Censors;”

And the question being, Shall the amendment be agreed to?

It was decided in the Negative. { Yeas, 14.  
  { Nays, 73.

The Yeas and Nays, being demanded by Mr. BASCOM, are as follows:

Those gentlemen who voted in the Affirmative, are

Messrs BASCOM, CAPEN, DODGE, FARNSWORTH, HALL, HEBARD, HIBBARD, HOWARD, HOWE, JONES, McMILLAN, PERKINS, O. SMITH, and SOWLES.

Those gentlemen who voted in the Negative, are

Messrs. ADAMS, BAILEY, BALLOU, BARBER, BARLOW, BEAMAN, BEEBE, BILL, BILLINGS, BROMLEY, BROOKS, BUTLER, CHAMBERLAIN, CHAPMAN, CHIPMAN, D. W. C. CLARKE, R. W.

CLARKE, P. CLARK, CLEVELAND, COWLES, CRANE, CREE, DENISON, DEWEY, DILLINGHAM, EDWARDS, FELTON, FERRIN, A. E. FIELD, C. K. FIELD, FLAGG, FORBUSH, FULLER, GALUSHA, GEORGE, GRAY, HARRIS, HAZEN, HINCKLEY, HINS DILL, HUTCHINSON, HYDE, JOSSELYN, JUDEVINE, L. KEITH, KELLOGG, KITTREDGE, LYMAN, MASON, McLAUGHLIN, NEEDHAM, NICHOLSON, OLIN, PIERCE, RAND, RAWSON, RIDDLE, ROCKWELL, ROLFE, A. T. SMITH, O. H. SMITH, SOULE, STEBBINS, STEVENS, STODDARD, TIBBETTS, WATERMAN, WADSWORTH, WEBBER, WHEELER, WILKINS, WING, and WRIGHT.

So the amendment was not agreed to.

And the question recurring, Shall the *Fourth* resolution be adopted?

It was decided in the Affirmative, { Yeas, 86.  
Nays, 2.

The Yeas and Nays being demanded by Mr. HUTCHINSON, are as follows :

Those gentlemen who voted in the Affirmative, are

Messrs. ADAMS, BAILEY, BALLOU, BARBER, BARLOW, BEAMAN, BEEBE, BILL, BILLINGS, BRADLEY, BROMLEY, BROOKS, BUTLER, CAPEN, CHAMBERLAIN, CHAPMAN, CHIPMAN, D. W. C. CLARKE, R. W. CLARKE, PHILO CLARK, CLEVELAND, COWLES, CRANE, CREE, DENISON, DEWEY, DILLINGHAM, DODGE, EDWARDS, FARNSWORTH, FELTON, FERRIN, A. E. FIELD, C. K. FIELD, FLAGG, FORBUSH, FULLER, GALUSHA, GEORGE, GRAY, HALL, HARRIS, HAZEN, HIBBARD, HINCKLEY, HINS DILL, HOWARD, HOWE, HUTCHINSON, HYDE, JOSSELYN, JUDEVINE, A. KEITH, L. KEITH, KELLOGG, KITTREDGE, LYMAN, MASON, McLAUGHLIN, McMILLAN, NEEDHAM, NICHOLSON,

OLIN, PERKINS, PIERCE, RAND, RAWSON, RIDDLE, ROCKWELL, ROLFE, A. T. SMITH, O. SMITH, O. H. SMITH, SOULE, SOWLES, STEBBINS, STEVENS, STODDARD, TIBBETTS, WADSWORTH, WATERMAN, WEBBER, WHEELER, WILKINS, WING, and WRIGHT.

Those gentlemen who voted in the Negative, are

Messrs. BASCOM and JONES.

So the *Fourth* resolution was adopted, as follows:

IV. *Resolved*, That as the amendments proposed by the Council will necessarily fail, and be virtually rejected by the people, unless duly confirmed—this Convention sees no occasion to take any further action in relation thereto.

Mr. BAILEY, presented the following resolution, which was read:

*Resolved*, That the thanks of this Convention be tendered to the Honorable LOYAL C. KELLOGG, for the able and impartial manner in which he has performed the duties of President.

And the question being stated by the SECRETARY, the resolution was unanimously adopted.

Mr. C. K. FIELD moved that the votes, adopting the resolutions reported by the Committee on the proposed Amendments, be severally reconsidered;

And the question being taken upon each of said resolutions, The motion was not agreed to.

On motion of Mr. DENISON,

The Convention adjourned.

SATURDAY, JAN. 10, 1857.

Prayer by the Rev. Mr. SHELTON.

The Convention was called to order, and the Journal of yesterday was read and approved.

Mr. PERKINS presented the following resolution, which was read :

*Resolved*, That the vote instructing the Secretary to procure the printing and distribution of 1500 copies of the Journal of this Convention, be re-considered; and that E. P. Walton, of Montpelier, be requested to publish the proceedings of the Convention, together with the Ordinance of the last Council of Censors, calling this unconstitutional Convention, in the Appendix to his "Vermont Register" for the year 1858.

Mr. CHAPMAN moved to lay the resolution upon the table ;

Mr. LYMAN moved that the resolution be dismissed ;

And the question being taken, the resolution was dismissed.

Mr. DENISON presented the following resolution, which was read and adopted :

*Resolved*, That when this Convention adjourns, it adjourn to meet on Monday morning at 7 o'clock.

On motion of Mr. BALLOU,

The Convention adjourned.

MONDAY MORNING, 7 o'clock.

JANUARY 12, 1857.

The Convention was called to order, and the Journal of Saturday was read and approved.

On motion of Mr. LYMAN,

The PRESIDENT pronounced the Convention adjourned *without day*.

D. W. C. CLARKE, *Secretary*.

## APPENDIX.

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### ARTICLES OF AMENDMENT PROPOSED BY THE COUNCIL OF CENSORS, FEBRUARY, 1856.

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ARTICLE 1. The General Assembly shall meet on the second Thursday of October, biennially.

ARTICLE 2. The Governor, Lieutenant Governor, Treasurer of the State, House of Representatives and Senators, shall be chosen on the first Tuesday in September, biennially.

ARTICLE 3. The term of Office of the Governor, Lieutenant Governor and Treasurer of the State, shall commence when they shall be chosen and qualified, and shall continue for the term of two years, or until their successors shall be chosen and qualified, or to the adjournment of the session, of the Legislature, at which, by the Constitution and Laws, their successors are required to be chosen, and not after such adjournment.

ARTICLE 4. Assistant Judges of the County Courts, Sheriffs, High Bailiffs, State's Attornies, Judges of Probate, and Justices of the



Peace, shall be elected biennially, as provided by the Constitution and Laws, and shall hold their offices for two years commencing on the first day of December, next after election.

ARTICLE 5. The House of Representatives shall consist of one hundred and fifty members. Each County shall have two, the remainder shall be apportioned to the several Counties according to the population of each; due regard being always had in such apportionment to the Counties having the largest fractions. The Legislature shall make a new appointment after the taking of each census of the United States, or census taken by the authority of the General Assembly, regarding the above provisions of this article—and until there shall be an apportionment by the Legislature, the Representatives shall be apportioned to the several Counties as follows, to wit:—Addison County, twelve; Bennington County, nine; Caledonia County, eleven; Chittenden County, thirteen; Essex County, four; Franklin County, thirteen; Grand Isle County, four; Lamoille County, six; Orange County, thirteen; Orleans County, eight; Rutland County, fifteen; Washington County, twelve; Windham County, thirteen; Windsor County, seventeen; and shall be elected, and their election certified, in the manner provided for the choice of Senators; and if two or more persons voted for in any County shall receive an equal number of votes, the House of Representatives, when assembled, shall elect one or more of such persons, as the case may require.

ARTICLE 6. The Legislature shall have power to divide the Counties into representative districts, and regulate by law the mode of balloting for Representatives therein, and the means and the manner by which the result of said balloting shall be ascertained. Each district shall, so far as may be, consist of an equal number of inhabitants, and of convenient and of contiguous territory, but no town or city shall be

divided, and if any town or city shall be entitled to one or more Representatives, such town or city shall be made an entire district, and may elect the number of Representatives to which it shall be entitled. The persons voted for in such districts, equal in number to that of Representatives apportioned thereto, having the greatest number of legal votes, shall be the Representative or Representatives, as the case may be, and if two or more persons in any district shall receive an equal number of votes, the House of Representatives shall elect one or more of such persons, as the case may require.

ARTICLE 7. The Senate shall be composed of two Senators from each County, and shall be elected for the term of four years. At the first session of the Senate, elected under this Constitution, as amended, the Senators of each County shall be divided into two classes, to be determined by lot, the term of the first class shall expire at the close of the second year, of the second class, at the close of the fourth year; one Senator from each County to be elected biennially thereafter. And if vacancies shall happen, the Governor shall make temporary appointments until the next election, when all vacancies shall be filled by the freemen.

ARTICLE 8. The General Assembly, at its first session under this Constitution, as amended, shall elect and classify the Judges of the Supreme Court in such manner that the term of office of one third of the whole number, as near as may be, shall expire biennially, and thereafter, the term of office of such Judges shall be six years. If the office of any Judge shall become vacant, before the expiration of the regular term for which he was elected, the Governor shall make a temporary appointment until the meeting of the General Assembly, when such vacancy shall be filled.

ARTICLE 9. All elections by the General Assembly, or either branch thereof, shall be made by *viva voce* vote.

ARTICLE 10. The freemen of each town in this State, shall, on the day of election for choosing Representatives to the General Assembly, bring in their votes for Governor, Lieutenant Governor, and Treasurer of the State, and the presiding officer of each freemen's meeting, after the votes shall have been taken, sorted and counted, shall, in open meeting, make a certificate of the names of each person voted for, with the number of votes given for each, annexed to his name, and designating the office for which the votes were given, a record of which shall be made in the town clerk's office, and he shall seal up said certificate, and shall write thereon the name of the town, and the words, "Certificate of votes for \_\_\_\_\_," adding thereto the title of the office voted for as the case may be, and shall deliver such certificate to some Representative chosen as a member of the General Assembly, instead of delivering *the votes* as required by the tenth section of the second part of the Constitution. And it shall be the duty of such Representative to cause such certificate of votes to be delivered to the Committee of the General Assembly, appointed to canvass the same.

ARTICLE 11. The votes for Governor, Lieutenant Governor, and Treasurer of the State shall be canvassed, and the result ascertained, and declared by a Committee appointed by the Senate and House of Representatives, and the persons receiving the greatest number of legal votes for the respective offices, shall be declared duly elected. If, at any time, two or more persons designated for any one of said offices, shall have received an equal number of votes, the Senate and House of Representatives, shall, in Joint Assembly, elect to such office, one of the three persons designated, for whom the greatest number of votes shall have been returned, and the person receiving, on a joint ballot, the greatest number of votes, shall be declared elected.

ARTICLE 12. The Secretary of State shall be elected at the time and in the manner, and the result of the balloting shall be ascertained, as provided in the election of Governor, and his term of office shall commence when he shall be elected and qualified, and continue for the term of two years, or until the election and qualification of his successor.

ARTICLE 13. State Auditor of Accounts shall be elected at the time, and in the manner, and the result of the balloting shall be ascertained, as provided in the election of Governor, and his term of office shall commence when he shall be elected and qualified, and continue for the term of two years, or until the election and qualification of his successor.

ARTICLE 14. Bank Commissioner shall be elected at the time, and in the manner, and the result of the balloting shall be ascertained, as provided in the election of Governor, and his term of office shall commence when he shall be elected and qualified, and continue for the term of two years, or until the election and qualification of his successor.

ARTICLE 15. Registers of Probate shall be elected by the freemen of the respective Probate Districts at the time, and in the manner, and the result of ballotings shall be ascertained, as provided in the election of Judges of Probate, and shall hold their offices for two years from the first day of December next after their election.

ARTICLE 16. The Yeas and Nays shall not be taken on any question in the House of Representatives, excepting upon reconsideration of a bill returned by the Governor, unless demanded by at least, ten members.

ARTICLE 17. The several County Courts, on application of either party, shall have power to refer such civil suits as, in the opinion of

such Court, are proper to be referred, under such regulations as the General Assembly shall direct, and not otherwise.

ARTICLE 18. In order that the freedom of this commonwealth may be preserved inviolate forever, there shall be chosen by ballot, by the freemen of the respective Counties in this State, on the first Tuesday in March, in the year of our Lord one thousand eight hundred and sixty-three; and on the first Tuesday in March, in every ten years thereafter, one person in each County, who shall be chosen in the same manner the Senate is chosen, to be called the *Constitutional Council*, who shall meet together on the first Wednesday of June next ensuing their election, at the State House, the majority of whom shall be a quorum in every case except, as to calling a Convention, in which two thirds of the whole number elected shall agree, and whose duty it shall be to inquire whether the Constitution of this State requires amendments made therein, or additions made thereto, and this power they shall continue to have for and during the space of six months from the day of their election, and no longer. The said Council shall also have power to call a Convention, to meet within eighteen months after their sitting, if there appear to them an absolute necessity of amending any article of this Constitution, which may be defective, explaining such as may be thought not clearly expressed, and adding such as are necessary for the preservation of the rights and happiness of the people. But the articles to be amended, and the amendments proposed, and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such Convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject. And when said Council propose amendments to the Constitution as herein provided, it shall be their duty to call a Con-

vention to consider such amendments, and by an Ordinance for that purpose, said Council shall designate the time, place, and manner of electing the delegates of such Convention, and the time and place, when and where the Convention shall meet.

The Convention to consider of the amendments proposed by said Council, and to adopt the same, or such parts thereof as the Convention shall judge will be most conducive to the good government, peace and happiness of the State, shall be composed of ninety delegates.

Each County shall be entitled to two delegates at least, and the remainder of the delegates shall be apportioned to the several Counties, according to their population, as the same was ascertained by the (then) last census taken under the authority of the United States, regard always being had in such apportionment to the Counties having the largest fraction. And the persons equal in number to the number of delegates apportioned to such County, having the greatest number of legal votes in such County, respectively, shall be the delegates of such County. And if two or more persons in any County shall have received an equal number of votes, the Convention, when assembled, shall elect one of such persons, as the case may require, as delegate or delegates of said Convention.

ARTICLE 19. This Constitution, as amended, shall take effect on the first day of January, eighteen hundred and fifty-eight.